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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/576,770

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Fabrizio Gavelli

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EXAMINER

TREYGER, ILYA Y

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/576,770	Applicant(s) GAVELLI ET AL.	
	Examiner ILYA Y. TREYGER	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Title and Specification objections have been withdrawn based on Applicant's Remarks page 5.
2. Drawings objection has been withdrawn based on Applicant's Remarks page 6 first paragraph.
3. Claim 1 is amended.
4. Claim 10 is canceled.

Claims 1-9, 11, and 12 are examined on the merits.

Response to Arguments

5. Applicant's arguments filed 02/01/2008 have been fully considered but they are not persuasive;
6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., monolithic sheet) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicants argue that ABERCROMBIE does not disclose the claimed structure because lines of weakness or perforations which can serve the dual purposes of both being lines of separation, and lines along which the sheet may be folded.

However, Channer expressly disclose a single elongate strip provided in a roll with a plurality of sheets separated by a **row of perforations**, wherein each sheet can be torn off as an when required, in a similar manner to toilet tissues (See page 4, lines 9-13). The perforation line

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is a line of weakness, since the presence of the perforations define the weakness of the material, and therefore is fully capable of serving dual purposes – as a line of separation and as a folding line.

7. Applicants further argue that Channer does not disclose the claimed structure because the sheets of Channer are layered in a “stack”, and therefore are not adjacent from one another, wherein Channer does not contemplate any other configuration or construction for his articles.

However, Channer expressly disclose a single elongate strip provided in a roll with a plurality of sheets separated by a **row of perforations**, wherein each sheet can be torn off as an when required, in a similar manner to toilet tissues (See page 4, lines 9-13), and thus Channer discloses the claimed structure.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 1-9, 11, and 12 are is rejected under 35 U.S.C. 103(a) as being unpatentable over ABERCROMBIE (WO 98/30326) in view of Channer (GB 2 375959 A).

12. In Re claims 1 and 8, ABERCROMBIE discloses an absorbent media that is an odour-reducing sheet (p.1, ln. 2-3; p.3, ln. 15-18) comprising a non-woven, air permeable fibrous material (See p. 6, ln. 26-27) which carries an odour-adsorbing material, i.e. carbon, a zeolite, titanium dioxide, zinc oxide, aluminum (See p. 6, ln. 11-18).

ABERCROMBIE does not expressly disclose the device where the tear-off pieces of the sheet are adjacent to one another and are separable from one another along a line of perforations, or along a line of weakness in the sheet.

Channer teaches a sheets adjacent to one another having a substrat being provided with an air freshening or purifying composition, wherein the sheets are provided with perforation line

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that is a line of weakness, since the presence of the perforations define the weakness of the material (Abstract, ln. 8,9; page 4, lines 9-13).

Since both ABERCROMBIE and Channer belong to the same problem solving area, i.e. odor reducing or refreッシング, it would have been obvious to one having ordinary skill in the art at the time the invention was made to supply odor-reducing sheets of ABERCROMBIE with a plurality of tear-off pieces as taught by Channer in order to utilize the conventionally known method of separating sheets from one another.

13. In Re Claim 2, ABERCROMBIE discloses an odour-reducing sheet (p.1 ln. 2-3, p.3 ln. 15-18) wherein the odour-adsorbing material comprises particulate activated carbon (See p. 1 ln. 15, p. 6 ln. 11-18).

14. In Re Claim 3, ABERCROMBIE discloses an odour-reducing sheet wherein the odour-adsorbing material is present in the sheet in an amount of at least 5% (w/w) of the total weight of the sheet (See p. 10 ln. 6-8).

15. In Re Claim 4, ABERCROMBIE discloses an odour-reducing sheet wherein the odour-adsorbing material is present in the sheet in an amount of no more than 60% (w/w) of the total weight of the sheet (See p. 10 ln. 6-8).

16. In Re Claim 5, ABERCROMBIE discloses an odour-reducing sheet wherein the odour-adsorbing material comprises a binder arranged to inhibit or substantially avoid shedding of the odour-reducing material from the sheet (See Abstract ln. 5, p.5 ln.27, p.9 ln.28).

17. In Re Claim 6, ABERCROMBIE discloses an odour-reducing sheet wherein the binder is present in the sheet in an amount of at least 5%(w/w) of the total weight of the sheet (See p.9 ln.22-29).

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18. In Re Claim 7, ABERCROMBIE discloses an odour-reducing sheet wherein the sheet comprises polyester, polyamide, cellulosic or polyamide fibers, or a mixture thereof (See p.8 ln.24).

19. In Re Claim 9, ABERCROMBIE in view of Channer disclose the invention discussed above, but do not expressly disclose the particular parameter of the sheet area.

The particular parameter of the sheet area range depends of the intended use affecting the covering area, and therefore is the matter of optimization as being result effective variable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the particular parameter of the area range depending on the intended us in order to cover desired area, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233(MPEP 2144.05 (II-A)).

20. In Re Claim 11, ABERCROMBIE discloses a method of reducing odors using an odor-reducing sheet being disposed at a locus in which the unwanted odors are present (See p.10 ln. 23-28).

It is noted also that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Since ABERCROMBIE in view of Channer disclose substantially the same structure, as that claimed by applicant, the structure is fully capable of performing the claimed function.

21. In Re Claim 12, ABERCROMBIE discloses a method wherein the odour-reducing

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sheet or portion(s) thereof are used in footwear (See p.10 ln. 23-28).

Conclusion

22. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILYA Y. TREYGER whose telephone number is (571)270-3217. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ilya Y Treyger/

Examiner, Art Unit 3761

/Tatyana Zalukaeva/

Supervisory Patent Examiner, Art Unit 3761